Removal of provisions regarding sanction for quarrying of laterite, etc.

Mr. Chakko Cheruvattur.—Sir, I beg to move the following resolution :—"*In view of the great hardship caused to the subjects of the State by the provision that sanction should be obtained for quarrying laterite stones, gravel, clay, earth and turf, this Council recommends to the Government that the provision to obtain sanction from the Government and the Jenmi for quarrying the above materials may be deleted from* the Land Revenue Manual, *and that their quarrying may be made free and without sanction.*"

Now, this resolution is intended for the advancement of the agricultural and middle classes of our State. The provision to obtain sanction previous to quarrying operations works very great hardship upon both the above classes. This is not so much felt in the Cochin-Kanayannur Taluk as in the other taluks. I have purposely left out granite from the scope of my resolution, because that does not work so much hardship, although granite quarrying is also attended with the same disadvantages as the others to a certain extent. Further, the necessity for granite quarrying does not generally arise all on a sudden ; not so in the case of laterite, earth and turf. The ryot who sees the bund of his *Puncha* or *Kole nilom* giving way has to stand with folded arms and look at the destruction caused to his crops by salt water entering the cultivation. He may have an assigned *paramba* of his own close by from which he can take earth and protect his crops, or any neighbouring land-holder may be willing to come to his rescue by allowing him to take earth from his *paramba*, as ryots know so well to help each other. But all ryots are prohibited from helping each other in protecting each other's crops by this provision in *the Land Revenue Manual*. They have all to remain silent spectators of this ruin perpetrated by natural forces upon their crops till the sanction of the Tahsildar is obtained or the whole destruction work is complete, whichever event first happens. The sanction of the Tahsildar means sanctionof the Village Parvatiakkaran or Menon. This is made more difficult in many cases by the demands of an exacting Jenmi who may be the registered *pattadar* of that *paramba*. It is, when matters stand like this, that all the Tahsildars are stated to have unanimously reported that, till now, the rule in question is not found to work any hardship on the people.

In the case of laterite quarrying also much hardship is experienced. Laterite is chiefly quarried for the primary necessity of man viz., the building of houses. The effect of the

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provision in *the Land Revenue Manual* is practically to prohibit the building of houses with laterite without the sanction of the Government and the Jenmi. This causes very great inconvenience and hardship. Recently, there was an instance at Velur, in my constituency, where a person was fined, practically, Rs. 75 for having built a house with laterite without Government sanction. It is also noteworthy that this inquiry and demand was made months after the construction of the house was completed. But I must state with gratefulness that the Diwan Peishkar interfered and compounded it by reducing the amount to a negligible sum. There have been other instances also where the Diwan Peishkar had been kind enough to compound such offences. But it is the principle underlying this action that I protest against. No respectable man would like to have himself punished for doing a thing which he *bona fide* believes he is entitled to do. The Tenancy Regulation has given a permanent right of occupancy to tenants. I do not intend to give here particular instances of acts of oppression exercised by Jenmies upon their tenants for putting in *Kychits* of consent to quarry. Suffice it to say that it gives another handle of oppression to the Jenmies in addition to those already existing.

Now, let us see how the provision is worked practically. The safeguards provided by *the Land Revenue Manual* are not at all adhered to. "Such applications should bear a stamp to the value of one anna. Applications addressed to the Tahsildar may be presented to the Village Officers, who shall submit them to the Tahsildar for orders. Applications for permission to quarry shall, as a rule, be disposed of by the Tahsildar within fifteen days of the receipt of the same in the Taluk Office.

"Note—(1) In the case of every application for quarrying from assigned lands presented by a person other than by a registered *pattadar* or *inamdar*, as the case may be, agreeing to the grant of permission to the applicant for quarrying on the conditions specified in this chapter.

"(2) Before granting permission to quarry from any Devaswam lands under the management of the Sirkar, the Tahsildar should ascertain from the Devaswam Inspector of the group concerned, if the Devaswam Department has any objection to such permission being granted.

"(3) The provisions of this article should not be construed as restricting the sinking of wells and tanks on *patta* lands without previous sanction."

The answer to my question regarding laterite quarrying in the last budget session sufficiently elucidates this. Out of a

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total of 1062 applications in the Talappalli Taluk, only 178 applications were granted within the time prescribed by law. Nearly, 800 were granted out of time, and nearly 100 were rejected. Of these 249 were granted after one month, etc. And after all, what is the income out of this quarrying affair? In 1100 the demand under this head was Rs. 460.

It is also seen from the answer to question No. 219, legislative session, that the Diwan Peishkar recommended the deletion of Note (1) to article 87 in *the Land Revenue Manual*. Appendix V to question No 219 is to this effect.

PROCEEDINGS OF THE DIWAN OF COCHIN.

REVENUE DEPARTMENT.

(Land Revenue)

"Read again G. O. dated 24th August, 1920. C. No. 27/96, asking the Diwan Peishkar to submit his remarks on the proposal of the Talappalli Taluk Conference for the cancellation of the rules requiring previous sanction of the Government for quarrying laterite and granite stones from *patta* lands.

"Read also (2) the following letter, dated 2nd October 1920, S. C. No. 79/96, from the Diwan Peishkar.

"With reference to Para 2 of the Government Proceedings, dated 24the August 1920, C. No. 27/96, relating to the introduction of quarrying rules in 1082 are given in the Foot Note to Chapter IV of *the Land Revenue Manual* (Page 43.) The rules were based on a note submitted by me in June 1907 as Assistant Settlement Peishkar. The note and the draft circular attached thereto embodied in Volume IV of *the Settlement Blue Book*, pages XLIX to LII.

"2. I have no idea to which particular provision in the present rules (articles 86 to 89 of *the Land Revenue Manual*) relating to quarrying from assigned lands, objection was taken by the Conference. Is it to the general provision in article 87 that quarrying should not be done from any assigned land without the written permission of the Tahsildar, be the purpose for which it is done what it may, whether agricultural, domestic or commercial? Or is it only to the provision that for agricultural and domestic purposes sanction should be obtained? Or is it to the specific provision to note (1) to article 87 that in the case of applications presented by a person other than a registered *pattadar* or *inamdar* a written statement should be taken from the *pattadar* or *inamdar* concerned agreeing to the grant of permission applied for by the applicant? Did the

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Conference raise any objection to the rules requiring previous permission even in cases where the purpose is commercial?

"3. I, therefore, asked all Tahsildars to enquire carefully and report on the following points.

"(a) Does the rule referred to above really work any hardship worth the name on the people? What is the Tahsildar's personal experience?

"(b) Do the Village Officers utilise this rule as a handle for oppressing the ryots? Have any instances come to the Tahsildar's notice?

"All these Tahsildars have unanimously reported that till now the rule in question is not found to work any hardship on the people, and that no instance has been brought to their notice of the Village Officers utilising the rule as a handle for corruption. This has also been my experience. But I think that provision in the note (1) to article 87 that, when the applicant happens to be the occupying tenant of a *pattadar*, the permission of the *pattadar* or *Jenmi* should also be obtained, before his application is granted, sometimes causes inconvenience to the application and delay in the disposal of applications. This note may be deleted. It has to be remembered that sanction from the Tansildar to a person who is not a *pattadar* to quarry in a field does not imply any sanction to enter upon land belonging to another for quarrying purposes without obtaining the latter's permission in cases where the conditions of tenancy require such permission. So the registered *pattadar* cannot have any reasonable ground for complaint, if the note in question which is intended to protect his interests be deleted.

"4. The other rules in *the Land Revenue Manual* in respect of quarrying should, in my opinion, be retained in the interests of the public as well as of the State. Indiscriminate quarrying from assigned lands will interfere with roads, lanes and canals on the sides of the fields in which quarrying is done, and it is necessary that the Government should exercise some effective control over them.

"*G. O. dated 7th April 1921, C. No. 27/96.*

"Government consider that article 87 of *the Land Revenue Manual* should stand as it is, and the note (1) appended thereto should not be deleted. No change in the existing rules will, therefore, be made.

(True extract)

(Signed)
Secretary to the Diwan.

To

The Diwan Peishkar.
" Press Bureau.
" Gazette."

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We see that the Government with a dash of the pen has overruled his thoughtful recommendations.

The Land Revenue Manual came into force before the Tenancy Regulation. The Tenancy Regulation has made sufficient provision for the protection of the Jenmi's interests. Section 23, clause (h) is to this effect. "If the *Kanom* tenant intentionally and wilfully commits such acts of waste as are calculated to materially and permanently impair the value and utility of the holding, a suit for ejectment on the ground stated in clause (h) should not be entertained, unless the landlord has served a notice on the tenant specifying a particular act of waste complained of, and when the waste is capable of remedy, requiring the tenant to remedy the same, and in any case to pay reasonable compensation for the waste, and the tenant has failed to comply within a reasonable time, with that request." When there are sufficient safeguards provided by law to protect the Jenmi's interests, I cannot understand why the Government should give such an additional handle of oppression to them. I want to represent by the introduction of this resolution the loud outcry against this provision in *the Land Revenue Manual.*

Now, it is the sanction of the Jenmi that is most seriously felt by the tenants.

President.—Have you been able to collect information how much the Jenmi is getting from the tenants for the grant of permission for quarrying laterite stones?

Mr. Chakko Cheruvattur.—It sometimes comes to about Rs. 50 and more.

President.—So there is no rule observed.

Mr. Chakko Cheruvattur.—There is nothing of that sort. It is the attitude of the Jenmies that prevents the Village Officers from making the report in time and the delay in giving sanction. We put in an application in the beginning of the year. The Village Officer goes to the Jenmi for getting the consent. He gives the consent only after the tenant and himself come to agreement. This proceeding will take a few months.

President.—He may not consent, unless the tenant agrees to give him a substantial amount. So, that comes to oppression.

Mr. Chakko Cheruvattur.—I don't know why the Government disallowed the recommendations made by the Diwan Peishkar. There are provisions in the Tenancy Regulation for the protection of the interests of the Jenmies in this respect. Section 23 (h) of the Tenancy Regulation is to this effect.

"If the *Kanom* tenant intentionally and wilfully commits such acts of waste as are calculated to materially and permanently impair the value and utility of the holding, etc."

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This, I think is a sufficient safeguard for the interests of the Jenmies. It is because there are sufficient safeguards for the protection of the interests of the Jenmies in the Tenancy Regulation that I have brought this resolution to this House. With these few words, I introduce this resolution for the consideration of this House.

Mr. S. F. Nunez.—Sir, I beg to second it.

Mr. M. K. Raman.—Sir, I want only one piece of information. Apart from the small income to the Government, is there any other useful purpose served by this provision? I would like to know that first.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—I think the mover of the resolution gave the information. It is to prevent indiscriminate quarrying by the sides of roads, canals, public paths, and the like. The right to all metals and minerals is a prerogative vested in His Highness the Maharaja. So the sanction of the Government is necessary for quarrying. These are the two main reasons for embodying the provision in the *Land Revenue Manual*, and not for making any revenue, which, it will be seen, is only a pittance.

Mr. C. A. Kunjunni Raja.—On a point of information. Is the whole article to be omitted or only the note?

President.—It comes to this that, the provision to obtain sanction from the Government and the Jenmi must be deleted, and quarrying must be made free and without sanction; wherever the Chapter relates that sanction must be obtained for the purpose of quarrying these metals from assigned lands, the provisions concerned should be deleted.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The resolution must be confined to assigned lands. But the point is not clear from the resolution. I think that the mover means so.

Mr. Chakko Cheruvattur.—I meant so.

President.—Two Members, Messrs. T. A. Ramachandra Ayyar and A. Eachara Menon have given notice of amendments. The amendments are the same. I now call upon them to move the same.

Mr. T. A. Ramachandra Ayyar.—I beg to move the amendment, *to delete the words "and the Jenmi"*. What I aimed was that persons wishing to build houses should be at liberty to cut stones without having to wait for the Jenmi's sanction or the Government sanction. The Jenmi's interest is certainly to be safeguarded. Sometimes, a tenant may take too much earth from the land, thereby making the field useless for further cultivation. Some arrangement has to be made to avoid this hardship. In my amendment this is not provided. I, there-

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fore, withdraw the amendment with a request that the resolution may be adopted with suitable modification.

President.—Who is to propose the modification?

Dr. A. R. Menon.—He leaves it to the Government.

Mr. A. Eachara Menon.—I do not move the amendment *to omit the words "and the Jenmi"*, because he has left out granite.

President.—I think it was not at all in the resolution. I think your reason for withdrawing the amendment does not hold good. Since you find that it was not included in the resolution which you thought it had, you withdraw your amendment.

Mr. A. Eachara Menon.—Yes, Sir.

The above amendments were, therefore, deemed withdrawn.

Dr. A. R. Menon.—It would be better, if the Revenue Member would explain the position, to bring in modifications.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—I shall most gladly do it. I shall begin from the very beginning. We have got our Land Revenue system. We collect assessment from the people, and the system is based on well-known economic principles. The subjects of the State have to contribute towards the up-keep of every day administration and all that kind of thing. In Cochin, as elsewhere in India, land, of course, is the chief source of produce and income. We collect a certain definite fraction of the produce of the land as Land Revenue and as contribution by subjcets. This is the general principle. The Land Revenue that we collect is a certain definite proportion of the produce of surface cultivation of land. Inside it we have things lay hidden. No human being can definitely say what all those things are. You know there are metals and minerals. It is a well-known principle throughout the whole of India that the right to metals and minerals—only to that which is grown in the surface the *pattadar* has a right—belongs to the Crown. His Highness has reserved that prerogative by a specific provision in the Settlement Proclamation (section 13), and according to that the right of minerals and metals is vested in His Highness. It is by this declaration that this prerogative right is maintained. You know that ,if any person wishes to make use of any metal from the subsoil, he must obtain the sanction of the Government. Some Members of the Council passed remarks that the Government is making a revenue out of it. It is not so. We have a giant's power, and like the proverbial lion, we make use of it like a lamb. We grant free of fee laterite quarrying, etc., for all agricultural and domestic purposes, be the quantity what it may. When some profit is made out of quarrying, or when quarrying is done on a commercial basis, we charge

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seignorage fees on an average rate in proportion to the extent quarried upon. This fee is charged for the ordinary class of metals as granite, laterite, earth and turf for making big embankments, bricks, etc. We have got other kinds of metals and minerals which we have to protect, such as manganese. No fee is charged for quarrying ordinary laterite, etc., things, if the materials are used for domestic and agricultural purposes. When they are used for commercial purposes, a nominal fee is charged. After all, I may tell you the annual revenue under this head comes to nearly Rs. 500. Most of this is derived by quarrying from Government *poramboke* lands. If we analyse this income and take into consideration private lands, it will be below Rs. 100 or even below Rs. 50, and so it will be evident that it is not for safeguarding this samll revenue that the rule is intended. The rule is enforced from an administrative point of view with a view to exercise that prerogative vested in section 13 of the Proclamation and that is only to prevent indiscriminate and promiscuons quarrying. Under the existing circumstance, you have to obtain the sanction of both the Government and the Jenmi for quarrying. If this resolution is accepted, you may quarry without any sanction from the Government or the Jenmi. In the backwater villages of the Cochin-Kanayannur Taulk, this may not work any hardship. There are several disabilities to the public to be prevented. Well, a *pattadar* who wants to build a house by the public road may quarry indiscriminately from his own land. Suppose the operations for quarrying carried on by him by the side of public road result in a large pit by the side of the road. This will be a danger for motor cars and carts, as they are liable to fall down into the quarry. To that particular individual, the quarrying may not cause hardship, but it would be a cause of danger to the public. Suppose a tenant wants to conduct quarrying operations in the slope of a hill. The Jenmi might allow it. But cattle and people going up the hill might fall into that pit. We have got a number of *poramboke* drainage canals for irrigation and drainage purposes. Indiscriminate quarrying by their side will be a cause of danger to such canals. A tile factory man finding that the earth by the side of a canal is suitable for his purposes, might go there and dig out the earth to a depth of 5 or 6 feet, and let in all the water which could be used for irrigation purposes into it, and this causes hardship to the cultivators. I may here state that an incident of this very kind took place some 6 or 7 years ago. One or two tile factory owners in Pudukkad took earth from the sides of a *poramboke* canal, and let in all the water into the hole. The agriculturists who depend upon this water came and represented to me that

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they are not getting water. I at once went to the spot and threatened the factory owners with a fine of Rs. 200, if they did not restore the bund of that canal at once. My threat had the desired effect. So in all these cases to protect the agriculturists the provision in *the Land Revenue Manual*, is very necessary. If this is taken away, in my opinion, it will do inconsiderable harm to the agriculturists. The application of this rule causes very little inconvenience to the public. The Member for Vadakkancheri was stating a case of a man's bund being breached, and that he could not take earth to repair it, as he could do so only with the sanction of the Government and the Jenmi. I suppose all these things exist only in imagination, and I think we are working those rules in a very liberal manner. If a party violates the rules, and when it comes to the knowledge of the department that it is done for the benefit of agricultural purposes, the case is compounded, and no fee is charged. These rules do not work any hardship at all. On the other hand, its retention is absolutely necessary in the interests of the agriculturists, and it is for these reasons, I must very strongly oppose the resolution. On going through the statement read by the mover of this resolution, I find sanction is accorded in many cases within a month from the date of application. But I may explain the statement. The statement will show that we disposed of 2,003 cases within 15 days, 652 cases within one month and 6,667 cases within 2 months. We have got more Jenmies in the Talappalli Taluk than in any of the other taluks. It is this circumstance that is the cause of some delay in the disposal of applications in that taluk. But even in the matter of obtaining the Jenmi's sanction, I now find that my recommendation to the Government, that the note should be deleted, was not correctly worded. I am responsible for the note. The note should not be deleted. Suitable amendments might be made to the note so that it may not cause hardship to the people.

President.—You mean the provisions insisting upon the Jenmi's consent not necessary?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The Government have power to give sanction to a tenant without the consent of the Jenmi for quarrying, etc. It is only to expedite matters we give such sanction. Suitable amendments may be made so as to enable sanction being granted to the tenants in cases where quarrying will not in any way cause permanent deterioration of land. For, deterioration on the authority of the Government sanction alone, the tenant cannot enter the Jenmi's land, for in section 84 it is laid down that he should get the

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consent of the Jenmi to enter his land. That is why I said that the note was somewhat loosely worded, and that was the reason why I styled that it should be amended.

Mr. Chakko Cheruvattur.—That note may be deleted.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—What I want now is that the right of a tenant to present an application to the Tahsildar to obtain sanction for quarrying should not be taken away, for if the Jenmi's sanction is insisted upon, his application will have to be rejected on the ground that he is not a *pattadar*. I do not want to take that right away from the tenant.

President.—What I understood from you is that even with regard to quarrying in Jenmi's lands, the Government sanction is necessrry for a deterioration of land might occur.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Government sanction is necessary for quarrying from any land, whether it is *pandaravaka* or belongs to the *jenmi*. Suppose valuable minerals such as manganese, etc., are met with in a quarry. The Tahsildar, on getting such information, has to report the matter to the Government through me, and those valuable metals belong to the Government, because the right to all minerals and metals in the land is vested in His Highness the Maharaja.

President.—We have nothing to do with the right of a Jenmi over his tenant.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—In the Tenancy Regulation a Jenmi has every right over his tenant, if the latter by quarrying causes a permanent deterioration of the value of the land. If a tenant is given permission to quarry without the Jenmi's consent, and if the tenant causes permanent deterioration, then he will have to compensate the Jenmi. There is provision in the Tenancy Regulation to the effect that a Jenmi can sue his tenant for eviction in such cases and also to claim compensation for deterioration. So, by giving tenants permission for quarrying, the Jenmies will not be at any disadvantage.

President.—From your point of view, do you think that the permission of the Jenmi for the purposes of quarrying, etc., in his land which the Government now insist is not necessary?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—It is not necessary.

President.—Now, we have understood your position.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—In any case, Government permission is necessary. I am not particular about the Jenmi's permission in the case of assigned lands. The Jenmi and the tenant will make their own arrangements.

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Mr. M. K. Raman.—So what I understood from what the Revenue Member has said is that, if the words "the Government" and before the words "the Jenmi" are omitted from the resolution, it will be acceptable to the Government.

President.—Government sanction is always necessary. He is not particular about the sanction of the Jenmi.

Mr. M. K. Raman.—Government sanction is quite necessary. The prerogative of His Highness should be retained. But by this resolution, as it is amended, the sanction from the Government is retained, and sanction from the Jenmi is dispensed with. Government cannot take objection to this resolution. The omission of the Jenmi's sanction is done by deleting the words "the Government and" before the words "the Jenmi" from the resolution. The Hon'ble Mover has pointed out that the Jenmi has got ample remedies open to him against the tenant according to the Tenancy Regulation.

President.—If we were to accept this resolution as amended, the Jenmies will say that their permission should always be obtained, and so they would object to quarrying, and the ends of the mover of this resolution will not be gained.

Mr. M. K. Raman.—The amendment proposed to be moved by me is that the words "the Government and" be deleted from the resolution.

President.—That was the amendment proposed by Messrs. T. A. Ramachandra Ayyar and A. Eachara Menon.

Mr. M. K. Raman.—That was withdrawn by Mr. A. Eachara Menon on the ground that granite was not included in the resolution.

President.—The resolution as it stands does not affect the Jenmies also. So the Jenmi Members are not affected by the resolution as it stands, and if the words "and the Jenmi" were to be omitted, they will have a complaint.

Mr. M. K. Raman.—As it stands, both the Government and the Jenmi will be affected. I understand the position of the Revenue Member. The Government should retain certain control over this matter. Otherwise, there will be difficulties. The tenants mostly get trouble from the Jenmies. This permission is utilised by the Jenmies as a means of obtaining some amounts from the tenants. If a tenant wants to build a house, he will have to get the sanction of the Government as well as of the Jenmi. The Jenmi may not give the sanction, whereas the Government may be willing to give the sanction, if the Jenmi consents. So no sanction is obtained thereby. The Revenue authorities are not particularly bent upon doing mischief,

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But when the Jenmi does not consent, the Revenue authorities cannot do anything. But if the Government is willing to give sanction, and the consent of the Jenmi is not necessary, Revenue authorities can grant their prayers without difficulty. So I would submit to the House, if the necessity to obtain sanction from the Government is retained, and the necessity to obtain sanction from the Jenmi is deleted, it will serve some useful purpose.

President.—So you will have to move an amendment.

Mr. M. K. Raman.—Whether I may be permitted to move an amendment at this stage to omit these three words "the Government and" from the resolution after the words "the Jenmi" is the point for the consideration of the President.

President.—So by your amendment you want to retain the sanction of the Government, but you want to delete the sanction of the Jenmi. So the resolution as proposed to be amended by you would read thus: "In view of the great hardship caused to the subjects of the State by the provision that sanction should be obtained for quarrying laterite stones, gravel, clay, earth and turf, this Council recommends to the Government that the provision to obtain sanction from the Jenmi for quarrying the above materials may be deleted from *the Land Revenue Manual*, and that their quarrying may be made free and without sanction."

Mr. Chakko Cheruvattur.—I may be allowed to withdraw the resolution, if the Government agrees to the proposed amendment, for the time being.

President.—There may be others who would oppose the resolution.

Mr. C. A. Kunjunni Raja.—Sir, I oppose the resolution.

President.—As it is 5.p.m., we shall consider it tomorrow.

The House rose for the day at 5. p. m.

T. K. KRISHNA MENON.

Secretary to the Council.

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